

## 37 Am. Jur. 2d Fraud and Deceit § 136

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### Fraud and Deceit

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### IV. False Representations


#### F. Intent to Deceive, or to Induce Reliance; Knowledge of Falsity

#### 4. Intent or Knowledge as Relating to Relief

## § 136. Fraud as a defense

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, [Fraud](#)  4, 13(2), 13(3)

### Forms

[Am. Jur. Pleading and Practice Forms, Fraud and Deceit §§ 197 to 205 \(Answers—Fraud as a defense\)](#)

Some courts hold that in order to sustain a defense of fraudulent representation, it is insufficient to show that the representations made were simply false but that a fraudulent intent in the party making them must also be shown.<sup>1</sup> Where this rule obtains, in order to constitute a good defense in an action on a contract, it must appear that the misrepresentation was made with knowledge of its falsity<sup>2</sup> and with intent to deceive.<sup>3</sup> Other courts hold that where fraud is relied on as a defense to a contract, fraudulent intent need not be shown<sup>4</sup> and that a misrepresentation is equally available for this purpose even though it is innocently made through mistake<sup>5</sup> and without knowledge of its falsity,<sup>6</sup> and even though it was honestly believed to be true by the party making it.<sup>7</sup>

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### Footnotes

- <sup>1</sup> [Haigh v. White Way Laundry Co.](#), 164 Iowa 143, 145 N.W. 473 (1914).
- <sup>2</sup> [Shaw v. Jacobs](#), 89 Iowa 713, 55 N.W. 333 (1893).

- 3 Haigh v. White Way Laundry Co., 164 Iowa 143, 145 N.W. 473 (1914).
- 4 J.H. Clark Co. v. Rice, 127 Wis. 451, 106 N.W. 231 (1906); Standard Mfg. Co. v. Slot, 121 Wis. 14, 98 N.W. 923 (1904).
- 5 Barrie v. Miller, 104 Ga. 312, 30 S.E. 840 (1898).
- 6 J.H. Clark Co. v. Rice, 127 Wis. 451, 106 N.W. 231 (1906); Standard Mfg. Co. v. Slot, 121 Wis. 14, 98 N.W. 923 (1904).
- 7 Foulks Accelerating Air Motor Co. v. Thies, 26 Nev. 158, 65 P. 373 (1901).

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